

DEPARTMENT OF ENVIRONMENTAL PROTECTION Monthly Enforcement Report for actions during January 2012

DISTRIBUTED: March 20, 2012

This report has been prepared to satisfy a statutory obligation the Maine Department of Environmental Protection has to inform the public of certain enforcement resolutions. Please contact Peter Carney at (207) 287-4305 or peter.j.carney@maine.gov for additional information regarding the activities listed in this report. The full text of most Administrative Consent Agreements is available on the Board of Environmental Protection's website at http://www.maine.gov/dep/bep/agenda.htm.

The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose penalties to deter similar actions in the future.

Administrative Consent Agreements Approved by the Commissioner and Office of the Attorney General (party followed by location):

Land:

Paul E. Thompson and George Harris, Jr., Eastport, Maine. Paul E. Thompson ("Thompson") and George Harris, Jr. ("Harris") violated Maine's *Natural Resources Protection Act* by placing, or causing to be placed, fill in, on, or adjacent to a coastal wetland without first obtaining a permit from the Department. Specifically, crushed stone was placed along approximately 330 linear feet of shoreline, which is a coastal wetland, along Deep Cove in Cobscook Bay. Subsequent to the violation, the subject property was sold as two separate lots. The Department notified the purchasers prior to the sale that they would be responsible for corrective actions following the sale. To resolve the violation, Thompson and Harris paid \$3,730 as a civil monetary penalty.

District Court Enforcement Resolutions (parties followed by location):

Land:

State of Maine, Department of Environmental Protection v. Paul J. Borriello and Jean M. Borriello, Raymond, Maine. Pursuant to a consent decree and order resolving the Department's complaint in this matter, Paul J. Borriello ("Borriello") admitted to violating provisions of Maine's *Natural Resources Protection Act* by constructing or altering, or causing to be constructed or altered, a permanent structure in and adjacent to a protected natural resource and placing fill in and adjacent to a protected natural resource. Specifically, stone walls, rip rap, other structures, and fill material were placed either in, or adjacent to, Sebago Lake. To resolve the violations, Borriello agreed to remove fill and structures and plant vegetation in accordance with an agreed upon plan. In addition, Borriello paid \$5,250 as a civil monetary penalty.

Superior Court Enforcement Resolutions (parties followed by location):

Land:

State of Maine and Maine Department of Environmental Protection v. William T. Gardner & Sons, Inc. and Gardner Land Company, Inc., Lowell and Burlington, Maine. In a Consent Decree entered into by the State, William T. Gardner & Sons, Inc. ("Gardner & Sons"), and Gardner Land Company, Inc. ("Gardner Land"), and approved by the Superior Court, the parties agreed to settle the State's allegations that Gardner & Sons and Gardner Land violated Maine's Site Location of Development law and that Gardner Land violated Maine's Natural Resources Protection Act and Storm Water Management law for activities related to developments in Lowell and Burlington on the shores of Eskutassis Pond. In its complaint, the State alleged that four developments constructed by either Gardner & Sons or Gardner Land were marketed under a common scheme of development and should be treated as a single subdivision subject to the Site Location of Development law, therefore, requiring a permit under the Site Location of Development law. In addition, the State's complaint alleged that Gardner Land violated Maine's



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Natural Resources Protection Act by removing vegetation, placing fill, and displacing soil in a freshwater wetland without first obtaining a permit from the Department and violated Maine's Storm Water Management law by constructing one or more acres of impervious area without first obtaining a permit from the Department. To resolve the State's allegations and without admitting liability or wrongdoing, Gardner & Sons and Gardner Land agreed to pay a civil monetary penalty in the amount of \$75,000. Of the \$75,000 total penalty amount, \$60,000 will be offset by a Supplemental Environmental Project in the form of a conservation easement to preserve undeveloped shoreline and wildlife habitat and preserve public access on approximately 120 acres of land around Eskutassis Stream. The easement will prohibit development, and allow public access, but will not limit forestry. The parties agreed that any additional development on the remainder of W.T. Gardner Co.'s shorefront on Eskutassis Pond shall be in compliance with the phosphorous standards set forth in Maine's Site Location of Development law and accompanying rules, but will not be otherwise subject to the requirements of the Site Location of Development law. In addition, Gardner & Sons and Gardner Land will conduct other actions including undertaking erosion control measures, minimizing wetland impacts by removing unncessary fill, and developing a detailed stormwater treatment plan to treat phosphorous export from the site.